UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

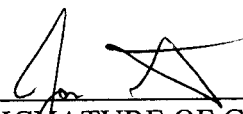|		
UNITED STATES OF AMERICA, Plaintiff, v. Esteban REYES-Garcia, Defendant	))))))))))))	Magistrate Docket No. **'08 MJ 09 10** <u>COMPLAINT</u> <u>FOR</u> <u>VIOLATION OF</u>: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

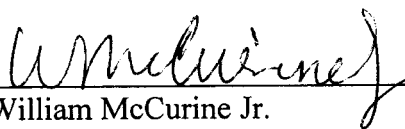The undersigned complainant, being duly sworn, states:

On or about **March 20, 2008** within the Southern District of California, defendant, **Esteban REYES-Garcia,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico,** was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **24th DAY** OF **MARCH 2008**

William McCurine Jr.
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Esteban REYES-Garcia

PROBABLE CAUSE STATEMENT

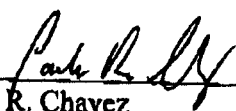I declare under the penalty of perjury that the following statement is true and correct:

On March 20, 2008, Border Patrol Agent R. Schiller was patrolling on Otay Mountain. This area is approximately twelve miles east of the Otay Mesa, California Port of Entry and approximately two and a half miles north of the United States/Mexico international boundary.

At approximately 10:00 PM a scope operator viewed possible illegal alien activity. Agent Schiller responded to the location. Upon arriving to the area, Agent Schiller went on a trail commonly used by illegal aliens attempting to further their illegal entry north into the United States. As he was walking on the trail, Agent Schiller observed seven individuals hiding in the brush. Agent Schiller approached the individuals and identified himself in both the English and Spanish languages as a United States Border Patrol Agent. All persons in the group, including one later identified as the defendant Esteban REYES-Garcia stated that they were citizens of Mexico. All stated that they did not possess any immigration documents allowing them to enter or remain in the United States legally. All seven individuals were then arrested and transported to the Brown Field Border Patrol Station for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on December 6, 2007 through San Ysidro, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was read his Miranda rights, which he acknowledged and was willing to make a statement without an attorney present. The defendant stated that he was a citizen and national of Mexico without valid immigration documents to enter or remain within the United States legally.
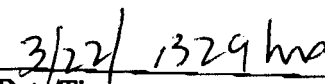
Executed on March 22, 2008 at 9:00 A.M.

_____
Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on March 20, 2008, in violation of Title 8, United States Code, Section 1326.

_____
William McCurine Jr.
United States Magistrate Judge

_____3/22/ 1329 hrs_____
Date/Time